**S.B.Civil Second Appeal No.66/2006**

**DATE OF ORDER** : - 6.3.2006

**HON'BLE MR. PRAKASH TATIA,J.**

Dr. Sachin Acharya, for the appellant/s
Mr. Jitendra Chopra, for the respondent/s

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The suit of the plaintiff-respondent was decreed by the trial court for eviction of the tenant – appellant on the ground of personal bonafide necessity of the plaintiff as the suit premises was required for the business of plaintiff's son Laxman. The finding of fact has been recorded by the two courts below after appreciation of the full evidence which have not been vitiated because of any lawful reason.

Learned counsel for the respondent submits that the appellant before the trial court submitted in writing that he will vacate the suit premises on 31.3.2006 and shall not prefer the appeal.

I considered the submission of the learned counsel for the parties. After going through the facts of the case, this Court is of the opinion that no substantial question of law is involved in this appeal. Hence the appeal deserves to be dismissed. At this stage, learned counsel for the appellant submits that appellate has suffered heart problem and he was admitted in hospital, therefore, he may be granted few months time and by that time he will vacate the suit premises. In the facts of the case, by taking a lenient view, despite the fact that the

appellant has submitted before the trial court that he will vacate the suit premises by 31.3.2006, the decree shall not be executed till 1.12.2006 upon the appellant furnishing written undertaking before the trial court within a period of one month that he shall handover the vacant possession to the landlord by or before 1.12.2006 and shall not part with the possession or sublet the suit premises during this period and shall pay all the arrears of rent and decreetal amount, if due, within a period of two months from today before the trial court or directly to the landlord, the decree under challenge shall not be executed till 1.12.2006. The appellant shall also deposit the rent month by month by 15th day of each succeeding month of their tenancy in the trial court.

In case of non-compliance of the order or default in payment of rent mentioned above, the decree shall become executable forthwith.

With the aforesaid concession, this appeal is dismissed.

**(Prakash Tatia), J.**

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